



Setti D. Warren
Mayor

City of Newton, Massachusetts
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Candace Havens
Director

M E M O R A N D U M

Public Hearing Date:	June 19, 2012
Land Use Action Date:	August 21, 2012
Board of Aldermen Action Date:	September 4, 2012
90-Day Expiration Date:	September 17, 2012

DATE: June 15, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner Current Planning ^{ET}
Alexandra Ananth, Senior Planner

SUBJECT: **Petition # 137-12**, NSTAR ELECTRIC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a retaining wall of four feet or more in height in the setback in order to replace existing transformers and add additional accessory equipment at **48 Elliot Street**, Ward 5, Newton Upper Falls, on land known as SBL 51, 29, 38, containing approximately 158,000 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

CC: Mayor Setti D. Warren

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.

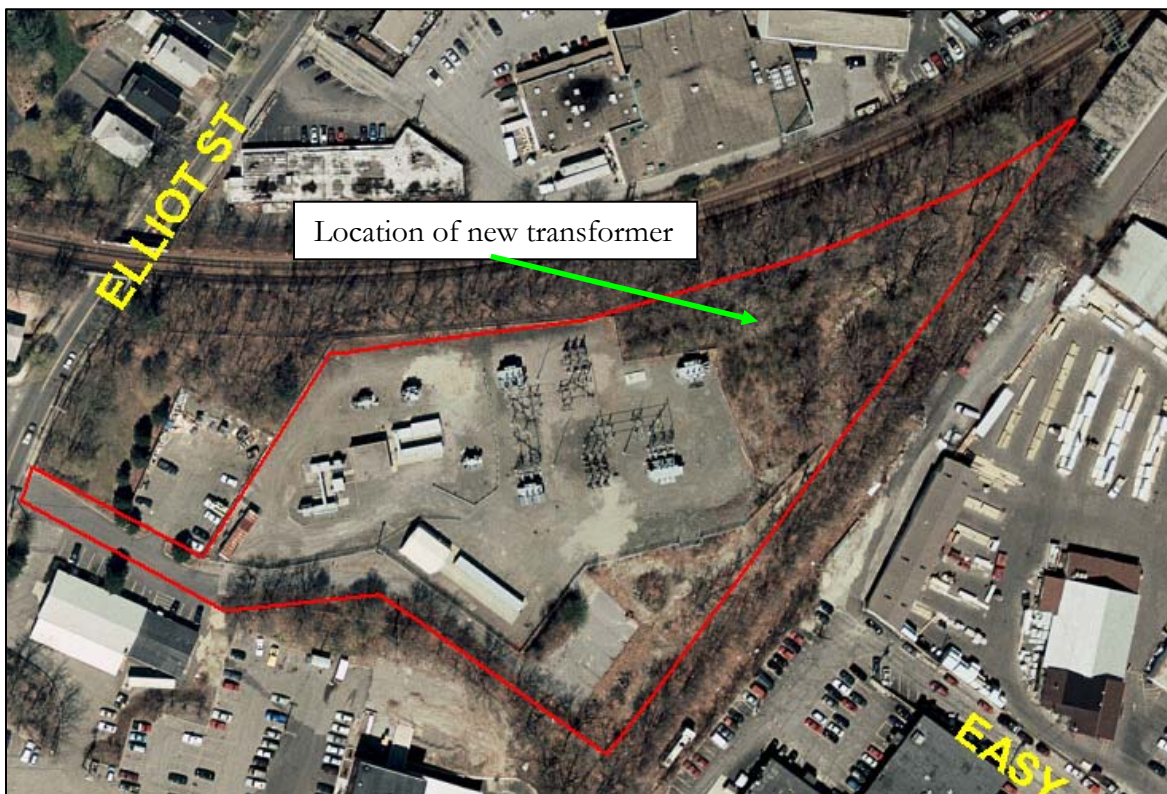


48 Elliot St.

EXECUTIVE SUMMARY

The subject property consists of a 158,000-square foot lot improved with an electric utility sub-station owned and operated by NSTAR Electric Co. The petitioner is proposing an expansion of its facilities, the replacement of existing transformers and the addition of accessory equipment. In order to construct these facilities the petitioner is proposing to expand a large retaining wall on the northeast side of their site, adjacent to the MBTA tracks, in order to create a level area for the new equipment.

The site is currently governed under a site plan approved as part of Board Order #43-09. The petitioner is proposing to expand retaining walls greater than four feet in height within a required setback, for which they need special permit approval and approval to alter the previously approved site plan.



I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Board should consider whether the proposed change in grade and retaining wall would have any adverse impacts on the neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located off Elliot Street south of Route 9 and immediately adjacent to the MBTA Green Line. The parcel is zoned for manufacturing use, but is surrounded by a mix of zoning districts. The MBTA Green Line tracks and a commercial area zoned Business 2 are immediately north of the subject property. South of the site are the City's Elliot Street Public Works Yard and Public Building Department facilities. Across Elliot Street is a large residential neighborhood zoned Multi-Residence 2 consisting of a mix of single- and two-family residences. East of the site is the Needham Street Mixed Use 1 District, specifically National Lumber and NewTV.

B. Site

The 158,000-sq. ft. site (~3.6 acres) currently contains electrical transformers, associated equipment, and various accessory buildings that serve much of Newton's electrical demand. The site is located off Elliot Street and shares an access drive with the City's Public Buildings Department facilities. Nearly the entire site is graveled and improved with electrical equipment. Although the majority of the site is fairly level, the slope drops off steeply behind the new transformer. Portions of the site are not yet developed and are wooded with a mix of deciduous and evergreen trees. The site is surrounded by a chain link fence; a second chain link fence surrounds all electrical equipment for added safety.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

No changes in use are proposed. The existing utility use is an appropriate use for the Manufacturing District and will remain.

B. Building and Site Design

Although the site is accessed from Elliot Street, a long driveway and existing trees obscure the facility from view. An eight-foot chain link fence surrounds the site and an additional chain link fence surrounds all electrical equipment. The new transformers will be located towards the northeast corner of the triangular shaped lot. The height of the retaining wall varies but is projected to have a maximum height of approximately 11 feet. Proposed fill will consist of soil and crushed stone, which makes up most of the surface area of the site. The length of the retaining wall is approximately 370 feet and wraps around the perimeter of the eastern section of the site.

The proposal should have minimal impact on the surroundings and would be visible only from the MBTA Green Line tracks. Because the fill will be pervious, no special drainage remediation is required. The petitioner is proposing wall materials to match

existing, which are interlocking segmented block.

C. Parking and Circulation

There are no changes to parking or circulation as part of this petition.

D. Landscape Screening, Lighting, and Signage

Existing landscape screening appears adequate. It does not appear that any lighting is proposed as part of this application.

The Planning Department notes that as part of the previous special permit the petitioner was to install some plantings and way-finding signage at the entrance to their site. As the City was reconstructing a fire station adjacent to this location the petitioner was not able to fulfill this obligation. Planning Staff suggests this condition be carried forward as part of the current special permit

IV. TECHNICAL REVIEW

A. Zoning Reliefs Sought

Based on the completed Zoning Review Memorandum (SEE ATTACHMENT "A"), the petitioners are seeking approval through or relief from:

- Section 30-5(b)(4) to construct a retaining wall greater than four feet in height within a required setback distance.
- Amend the previously approved site plan from Board Order #43-09.

B. Engineering Division Review

The Associate City Engineer has reviewed plans for the proposed grade change and retaining wall and indicated that it is properly designed for adequate drainage. The petitioner will need to maintain a safety fence around the entire perimeter and a structural engineer stamp on plans filed for building permit.

V. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS

- ATTACHMENT A:** ZONING REVIEW MEMORANDUM
ATTACHMENT B: ZONING MAP
ATTACHMENT C: LAND USE MAP
ATTACHMENT D: PREVIOUS BOARD ORDER #43-09
ATTACHMENT E: PREVIOUSLY APPROVED LANDSCAPE PLAN



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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: April 30, 2012

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: John M. Zicko, engineer representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to allow a retaining wall greater than four feet in height within a required setback distance**

Applicant: NSTAR Electric Co.	
Site: 48 Elliot Street	SBL: 51029 0038
Zoning: MAN	Lot Area: 158,000 square feet
Current use: Electric Utility Sub-Station	Proposed use: Electric Utility Sub-Station

BACKGROUND:

The property at 48 Elliot Street consists of a 158,000 square foot lot improved with an electric utility sub-station owned and operated by NSTAR Electric Co. The applicant intends to replace existing transformers and add additional accessory equipment. To construct these facilities the applicant requires a large retaining wall on the north-east side of the site.

The following review is based on plans and materials submitted to date as noted below.

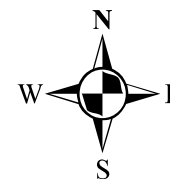
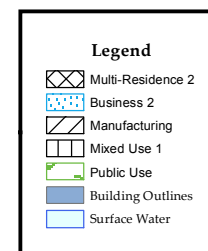
- Existing site plan, unstamped and unsigned, by NSTAR Electric, dated 2/28/12
- Proposed site plan, unstamped and unsigned, by NSTAR Electric, dated 3/29/12
- Detailed plan and elevation of proposed retaining wall, unstamped and unsigned, by NSTAR Electric, dated 2/28/12
- Copy of notice of decision for Board Order #43-09 which allowed the construction of a prior retaining wall at 48 Elliot Street
- Letter signed by John Zicko, Engineer, certifying the height of the tallest building on the site

ADMINISTRATIVE DETERMINATIONS:

1. Section 30-5(b)(4) allows retaining walls greater than four feet in height within a required setback by special permit. In the manufacturing district, the required side and rear setbacks are equal to one half the building height. The tallest building on the site has a height of 15 feet and therefore a 7.5 foot setback is required. The applicant's proposed site plans show an up to 15 foot tall retaining wall located within this required setback. Therefore, the applicant must obtain a special permit from the Board of Aldermen per Section 30-5(b)(4) to construct the walls as proposed.
2. The site is currently governed under a site plan approved as part of Board Order #43-09. To construct the walls as proposed, the applicant must obtain an amendment to the prior approved site plan from the Board of Aldermen.
3. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-5(b)(4)	Construct a retaining wall greater than four feet in height within a required setback distance	S.P. per §30-24
	Alter an approved site plan	Amend prior site plan from B.O. #43-09

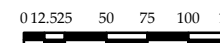
*City of Newton,
Massachusetts*



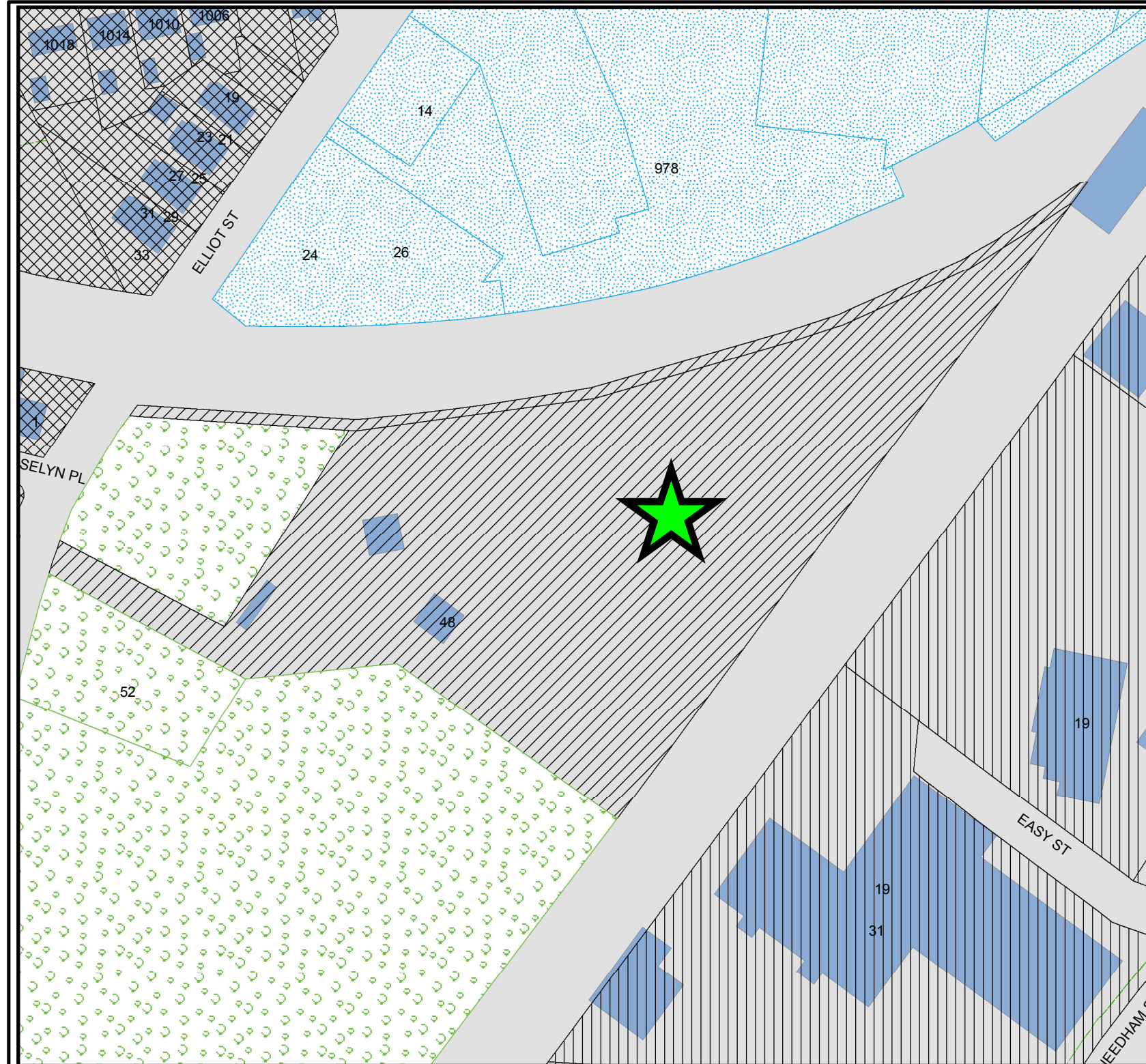
Attachment "B"

The information on this map is a Geographic Information System (GIS) product. The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for a particular purpose. City departments will not approve applications based solely on this information.

CITY OF NEWTON, MASS
Mayor - Setti D. Warren
GIS Administrator - Dougla



Map Date: June 13, 2012



Land Use Map 48 Elliot St.

*City of Newton,
Massachusetts*

Legend	
Land Use	
	Commercial
	Industrial
	Open Space
	Multi-Residence 2
	Business 2
	Manufacturing
	Mixed Use 1
	Public Use
	Building Outlines
	Surface Water



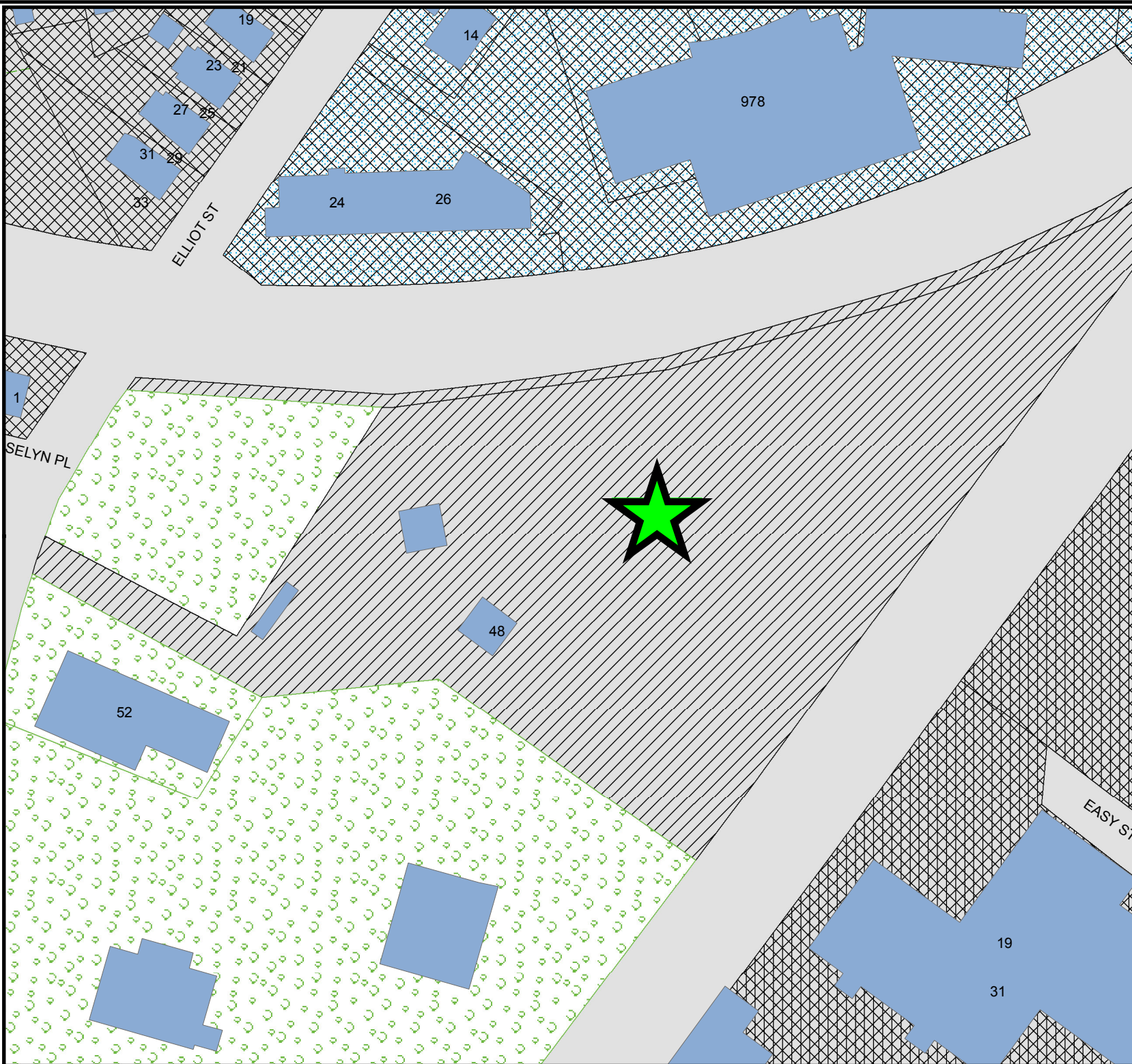
Attachment "C"

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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas J. Warren

0 12.5 25 50 75 100
feet

Map Date: June 13, 2012





2009 00091204

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Page: 1 of 4 05/21/2009 10:31 AM

#43-09

CITY OF NEWTON
IN BOARD OF ALDERMEN

April 6, 2009

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, that the application meets the criteria established in §30-24 (d) (1)-(4), and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN to alter the grade in excess of three feet as recommended by the Land Use Committee and for the reasons given by the Committee through its Chairman Alderman George E. Mansfield:

1. The proposed change in grade will improve internal circulation and access to the new equipment and will not have any adverse affects on abutters, since visibility of the new retaining wall is obscured by existing vegetation and drainage has been properly designed for the site conditions.
2. The treatment of the retaining wall and fencing on the top of the wall will give a more orderly appearance to the site.
3. Additional landscaping on City property, with the possible addition of identifying signage (address), at the Elliot Street entrance will make the entrance to the site more attractive and easier to find.
4. The new transformer will enhance the capacity of the existing facility and ensure continued electrical supply to Newton and surrounding communities.

PETITION NUMBER: #43-09

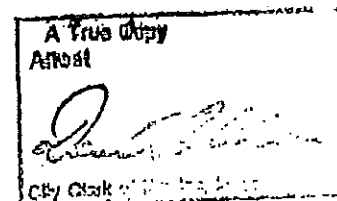
PETITIONER: NSTAR ELECTRIC CO.

LOCATION: 48 Elliot Street, Section 510, Block 29, Lot 38 containing approximately 158,000 sq. ft. of land

OWNER: NSTAR ELECTRIC CO. deed: 7361-484

ADDRESS OF OWNER: One NSTAR Way, Westwood, MA 02090

TO BE USED FOR: Alter the grade in order to construct a retaining wall to improve access around a new transformer



09 APR -8 PM 12:08
CITY CLERK
NEWTON, MA 02159

CONSTRUCTION: Redi-Rock 28" segmented block wall and gravel fill

EXPLANATORY NOTES: List section numbers and what they reference:
§30-5(b)(4) to alter existing contours by more than three feet as shown on plan; §30-23 for site plan approval; and §30-24(d) for special permit approval.

ZONING: Manufacturing Zone District

Approved subject to the following conditions:

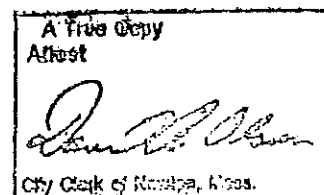
1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with the plans entitled:

- o "Grading Plan, 292 Station Newton Highlands," dated 8/21/2008 and stamped and signed by James D. Curtis, Structural Registered Professional Engineer
- o "Foundation Location and Fencing Plan," dated 8/5/08 and stamped James D. Curtis, Structural Registered Professional Engineer
- o "Retaining Wall Site Plan," consisting of three sheets, dated 11/18/08 and stamped by Robert M. DeSrosiers including "Section A" and "Section B."

- ~~2.~~ 2. The petitioner shall create a landscape plan for the City property at the Elliot Street entrance to the site, which includes evergreen plantings to screen equipment and parking from the street and enhances the overall appearance of the entry. The plan shall be submitted for review and approval by the Director of Planning and Development and the Commissioner of Parks and Recreation, and the installation of new plantings shall be coordinated through the Commissioner of Public Buildings. The petitioner shall maintain in good condition all landscaping approved and installed in accordance with this special permit/site plan. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.

If permitted by the Commissioner of Public Buildings, the petitioner shall also install identifying signage including street address at the Elliot Street entrance, such signage to be subject to the review and approval of the Director of Planning and Development.

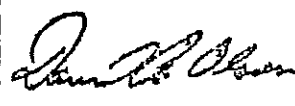
3. In order to enhance the orderly appearance of the site, the petitioner shall submit a sample of the interlocking block to be used for the retaining wall and a sample of the fencing to be installed on top of the retaining wall to the Director of Planning and Development for review and approval.
4. Upon completion of construction the petitioner shall remove any trash and construction debris from the area between the new pad and fence, as well as the graveled area around the new transformer, and shall perform an annual cleanup of such areas.
5. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:



- a. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Submit proposed material samples of fencing and retaining wall to the Director of Planning and Development for review and approval.
6. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
- a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered engineer certifying compliance with Condition #1.
 - b. submitted to the City Engineer final as-built, record site engineering, utilities, grading and drainage plans in both digital format and hard copy.
 - c. submitted to the Director of Planning and Development, final as-built plans in digital format.
 - d. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by the City Engineer certifying that the finished grades and final construction details of the driveways, parking area, and drainage systems have been constructed to standards of the Department of Public Works.
 - e. filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, fencing and parking areas.
7. Notwithstanding the provisions of Condition #6.e. above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of landscaping provided the petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site improvements to ensure their completion.

Under Suspension of Rules
Readings Waived and Approved
24 yeas

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on April 8, 2009. The undersigned

A True Copy
Attest

City Clerk of Newton, Mass.

further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



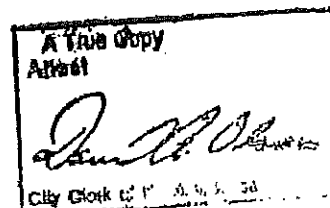
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 4/8 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:



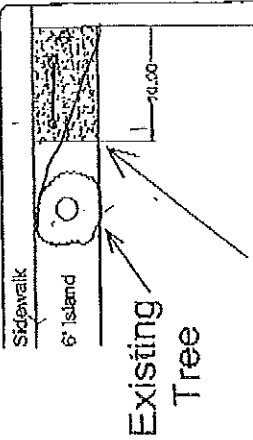
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen



Elliot Street

Driveway

also, post
24" x 8" sign
48 Elliot St
on wood posts
not to exceed
3.5 ft. in height



- Remove Weeds
- Plant 6 Japanese Yew (2'-3')
- 6 Inkberry (18"-24")
- 6 Day Lilly Mix (1 Gal Cont.)
- Place Pine Bark Mulch

- Remove Weeds
- Plant 5 White Rhododendrons
- With Pine Bark Mulch

split plantings
between "sides"
corners to one

Landscape Plan
Submitted 10/5/0